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EXAMINER
BECKER, DANIEL I

ART UNIT	PAPER NUMBER
3644	

DATE MAILED: 06/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Offic Action Summary	Application No.	Applicant(s)	
	10/637,196	NEISER, GABE	
	Examiner	Art Unit	
	Daniel I. Becker	3644	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on 8/8/03

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-38 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1-38 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date 8/8/2003.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. Claim 38 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 38, by stating, "wherein said light source is disposed at least partially along a length of said leash portion," has not claimed anything beyond Claim 20's "a light source disposed one of at least partially on and in said leash portion." By being either "at least partially on" or "in" the leash portion, the light source is also "along a length" of the leash portion.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1,2, 16-18, 20, 21, 34-36, and 38 are rejected under 35 U.S.C. 102(e) as being anticipated by Morgan US Publication Number 2003/0145802.

4. For Claim 1, Morgan discloses the claimed invention, comprising:

a leash portion having a reflective material

a handle portion; and

a light source connected to said handle portion.

It should be noted that all parts of the leash of Morgan are connected to one another, so a light source on any part of the leash is connected to the handle portion.

5. For Claim 20, Morgan discloses the claimed invention, comprising:

a leash portion having a reflective material

a handle portion; and

a light source disposed one of at least partially on and in said leash portion.

6. For Claims 2 and 21, Morgan discloses the claimed invention, further comprising a pivot point connected to said handle portion and said leash portion. It should be noted that for any point on a rope-like flexible leash, every point except for the ends can be considered a pivot point, on one side the handle portion and on the other side the leash portion.

7. For Claims 16 and 34, Morgan discloses the claimed invention, wherein the handle

portion comprises finger grips.

8. For Claims 17 and 35, Morgan discloses the claimed invention, wherein the handle

portion comprises an ergonomic portion for gripping by a user.

9. For Claims 18 and 36, Morgan discloses the claimed invention, wherein the handle portion comprises a non-slip portion for gripping by a user. It should be noted

that non-slip refers to an area where grip can be accomplished despite the potential presence of a friction-reducing agent. In the case of a loop, forces can be applied axially to a leash without the aid of friction, and therefore is capable of grip regardless of friction available, and therefore non-slip.

10. For Claim 38, Morgan discloses the claimed invention, wherein said "light source" is disposed at least partially along a length of said leash portion.

1. Claims 1, 9,10, 20, 27, and 28 are rejected under 35 U.S.C. 102(b) as being anticipated by Kuhnsman et al. USPN 4513692.

2. For Claim 1, Kuhnsman et al. inherently disclose the claimed invention, comprising

a leash portion having a reflective material

a handle portion; and

a light source connected to said handle portion. The light source is partially within the handle, it is therefore connected to the handle portion.

Howstuffworks.com's explanation of fiber optic cable,

http://electronics.howstuffworks.com/question402.htm explains that optical fibers, such as those used in the invention of Kuhnsman et al., reflect light internally along their length.

"By coating the glass in plastic, you get the equivalent of a mirror around the glass strand. This mirror creates **total internal reflection**, just like a perfect mirror coating on the inside of a tube does. You can experience this sort of reflection with a flashlight and a window in a dark room. If you direct the flashlight through the window at a 90 degree angle, it passes straight through the glass. However, if you shine the flashlight at a very shallow angle (nearly parallel to the glass), the glass will act as a mirror and you will see the beam reflect off the window and hit the wall inside the room. Light traveling through the fiber bounces at shallow angles like this and stays completely within the fiber. "

3. For Claim 20, Kuhnsman et al. inherently disclose the claimed invention, comprising

a leash portion having a reflective material

a handle portion; and

a light source disposed one of at least partially on and in said leash portion.

In Fig.1, you can see the light extending beyond the handle. In this embodiment, the light source is disposed partially in the leash portion.

Howstuffworks.com's explanation of fiber optic cable, http://electronics.howstuffworks.com/question402.htm explains that optical fibers, such as those used in the invention of Kuhnsman et al., reflect light internally along their length.

"By coating the glass in plastic, you get the equivalent of a mirror around the glass strand. This mirror creates **total internal reflection**, just like a perfect mirror coating on the inside of a tube does. You can experience this sort of reflection with a flashlight and a window in a dark room. If you direct the flashlight through the window at a 90 degree angle, it passes straight through the glass. However, if you shine the flashlight at a very shallow angle (nearly parallel to the glass), the glass will act as a mirror and you will see the beam reflect off the window and hit the wall inside the room. Light traveling through the fiber bounces at shallow angles like this and stays completely within the fiber. "

4. For Claims 9 and 27, Kuhnsman et al. disclose the claimed invention, wherein said light source is a directional light source oriented towards at least the reflective material (optical fibers) of the leash portion.

5. For Claims 10 and 28, Kuhnsman et al. disclose the claimed invention, wherein the reflective material comprises at least one fiber optic strand.

Claim R j ctions - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. Claims 2-4, 13-15, 21-23, and 31-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kuhnsman et al. USPN 4513692 as applied to claim 1 above and further in view of Debien USPN 6955138

8. For Claims 2 and 21, Kuhnsman et al. discloses the claimed invention, except that is does not disclose expressly that the handle portion has:

a pivot point connected to said handle portion and said leash portion for allowing said leash portion to pivot with respect to said handle portion

Debien discloses a handle having a pivot point (150, Fig. 22) connected to a handle portion (80) and said leash portion for allowing said leash portion to pivot with respect to said handle portion. Kuhnsman et al. and Debien are analogous art because they are from the same field of endeavor, leashes. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to use the handle of Debien, with its pivot with the leash of Kuhnsman et al. The suggestion/motivation for doing so would have been that it is obvious for any sort of leash, being flexible enough to function as a restraint for an animal would be improved by use of a pivoting “lead-aligning mechanism to improve a handler’s control of an animal attached to the retractable leash

assembly of the present invention" (Debien, Abstract). Therefore, it would have been obvious to combine Debien with Kuhnsman et al. to obtain the invention as specified in claim 2 and 21.

9. For Claims 3 and 22, Kuhnsman et al., and further in view of Debien discloses the claimed invention comprising at least one retention device (Debien 152, Column 17, Lines 10-15) for retaining said pivot point (Debien 150) in said handle portion (Debien 84)

10. For Claims 4 and 23, Kuhnsman et al., and further in view of Debien discloses the claimed invention, wherein said pivot point comprises a re-enforced ball joint system (Fig.22; Column 17, Lines 8-29).

11. For Claims 13-15 and 31-33, Kuhnsman et al. disclose the claimed invention, but do not disclose expressly comprising a retractable leash organizer. Debien discloses a retractable leash organizer. Kuhnsman et al. and Debien are analogous art because they are from the same field of endeavor, leashes. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to fit Kuhnsman et al. with a retractable leash organizer. The suggestion/motivation for doing so would have been that having a retractable leash organizer enables greater control over a leashed animal because it separates the tasks of reeling and holding a leash that are difficult without an organizer for slackened, retracted-but-unreeled leash length that accumulates in the user's hands when varying the distance to a leashed animal. Therefore, it would have

been obvious to combine Debien with Kuhnsman et al. to obtain the invention as specified in claims 13-15 and 31-33.

12. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kuhnsman et al. USPN 4513692 in view of Debien USPN 6955138 as applied to claim 2 above, and further in view of Maleyko USPN 5228686.

13. For Claim 5, Kuhnsman et al. and Debien disclose the claimed invention, further comprising a mount (84) that, in turn, comprises the pivot point (150), and wherein said mount (84) comprises a frontal portion (visible part of 150) while providing impact protection to said light source. It is inherent that using the leash of Kuhnsman et al. with the pivot and mount/housing (84) of Debien would require the light source, which is at the end of the leash opposite the clasp for an animal, to be within the combined invention (at the end of the leash portion within the housing), making the frontal portion, guide/pivot impact protection for the light source since they are exposed while the light source is within.

14. Kuhnsman et al. does not disclose expressly that the frontal portion is clear and translucent, and that said light source is disposed within said mount behind the frontal portion to provide illumination through the frontal portion.
Maleyko disclose a rubber ball designed to bounce after rebounding from significant impact and project light through their transparent medium.

Kuhnsman et al. (in view of Debien) and Maleyko are analogous art because they are from the similar problem solving area of providing impact protection to electric and light components using round profiles. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to form the pivot/ mount (Debien 150) of Kuhnsman et al. (in view of Debien) in the clear, transparent impact-absorbing rubber/plastic of Maleyko. The suggestion/motivation for doing so would have been that the clear rubber would then allow for the light source to project through the pivot/mount's frontal portion while still providing its pivot qualities and impact protecting location. Therefore, it would have been obvious to combine Maleyko with Kuhnsman et al. and Debien to obtain the invention as specified in claim 5.

15. Claims 6-8, 16, 17, 24-26, 34 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kuhnsman et al. USPN 4513692 as applied to claims 1 and 20 and further in view of Levine et al. USPN 5887550.

16. For Claims 6-8 and 24-26, Kuhnsman et al. discloses the claimed invention, comprising a battery, disposed within the handle portion, a conductive circuit connected to the light source, but does not disclose expressly that the batteries are rechargeable, that the conductive circuit is connected to the rechargeable batteries and a charger, or that there is a flashlight disposed at least partially within the handle portion. Levine et al. discloses a retractable animal leash with rechargeable batteries with a recharging cradle and a flashlight mounted in the handle (Column 4, Lines 20-23). Kuhnsman et al. and Levine et al. are analogous art because they are from the same field of endeavor,

leashes. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to replace the batteries of Kuhnsman et al. with rechargeable batteries and a cradle and fit the handle of Kuhnsman et al. with a flashlight. The suggestion/motivation for doing so would have been that the device is going to be used continuously for many hours over the course of its lifetime, and that the cost of using a leash with regular batteries could easily be brought down by using batteries that can be recharged conveniently every time the leash is put down in its cradle. Also, having a cradle gives the leash a "place" when not in use, decreasing the likelihood of its misplacement. Having a flashlight in the handle gives the owner the ability to not only be seen by others through the light emitting from the leash and flashlight, but to see their surroundings more easily, and in so doing, be more safe from otherwise unseen dangers/approaching vehicles. Therefore, it would have been obvious to combine Levine et al. with Kuhnsman et al. to obtain the invention as specified in claims 6-8 and 24-26.

17. For Claims 16, 17, 34, and 35 Kuhnsman et al. discloses the claimed invention except wherein the handle portion has finger grips and wherein the handle portion comprises an ergonomic portion. Levine et al. discloses finger grips and an ergonomic portion (Levine et al. 104). Kuhnsman et al. and Levine et al. are analogous art because they are from the same field of endeavor, leashes. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to fit the handle of Kuhnsman et al. with finger grips and/or an ergonomic gribs because finger grips and ergonomic grips can increase the amount of force a hand can hold a handle and can reduce user

fatigue of gripping a handle. Therefore, it would have been obvious to combine Levine et al. with Kuhnsman et al. to obtain the invention as specified in claims 16, 17, 34, and 35.

18. Claims 11, 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kuhnsman et al. USPN 4513692.

19. For Claims 11 and 29, Kuhnsman et al. discloses the claimed invention except for the light source comprising at least two light sources. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use two or more light sources, since it has been held that that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.,* 193 USPQ 8.

20. Claims 12, 18, 30, and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kuhnsman et al. USPN 4513692 as applied to claims 1 and 20 above, and further in view of Parker USPN 6752514.

21. For Claims 12 and 30, Kuhnsman et al. discloses the claimed invention but does not disclose an indicator for indicating a charge status of a rechargeable battery disposed within the handle portion and electrically connected to at least the light source. Parker discloses an indicator (111) for indicating a charge status of a rechargeable battery (24 and 25) disposed within the handle portion (10) and electrically connected to at least the light source (14).

22. Parker and Kuhnsman et al. are analogous art because they are from similar problem solving area of shining a light in the dark for extended periods regularly with a handheld device.

23. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to equip Kuhnsman with an indicator for indicating a charge status of a rechargeable battery disposed in the handle portion (instead of the regular batteries). The suggestion/motivation for doing so would have been that rechargeable batteries reduce the cost and increase the convenience of using the device by allowing for more lifetimes of battery charge before battery replacement and having a battery status indicator would prevent the user from finding themselves without power to operate the light source in the leash while out in the dark by way of indicating use based on an estimation of how much charge is available for lighting the light source. Therefore, it would have been obvious to combine Parker with Kuhnsman et al. to obtain the invention as specified in claims 12 and 30.

24. For Claims 18 and 36, Kuhnsman et al. disclose the claimed invention but does not disclose wherein the handle portion comprisies a non-slip portion. Parker discloses a handle (10) having a non-slip portion (Fig.3, either side of the handle (10; Column 3, Lines 49-54). It is implied by the presence of the rubber grips on the smooth steel handle 10, that the grips are there to increase the grip available at any given grip force and is equivalent to “non-slip.”

25. Parker and Kuhnsman et al. are analogous art because they are from similar problem solving area of shining a light in the dark for extended periods regularly with a handheld device.

26. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to equip Kuhnsman with a non-slip grip.

27. The suggestion/motivation for doing so would have been to make the leash less prone to being dropped by the user fighting the pull of a leashed animal. It is especially valuable in the case of the leash of Kuhnsman et al. because it is alerting surrounding threats to the user's location. Therefore, it would have been obvious to combine Parker with Kuhnsman et al. to obtain the invention as specified in claims 18 and 36.

28. Claims 19 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kuhnsman et al. USPN 4513692 as applies to claims 1 and 20 in further in view of Greves USPN 5,967,095

For Claims 19 and 37, Kuhnsman et al. disclose the claimed invention wherein the reflective material comprises at least one fiber optic strand, but do not expressly disclose that the leash portion comprises nylon. Greves discloses a leash made of nylon (Column 4, Lines 14-18). Kuhnsman et al. and Greves are analogous art because they are from the same field of endeavor, lighted animal leashes. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to use nylon in the leash of Kuhnsman et al. The suggestion/motivation for doing so would have been because nylon is a strong, weatherproof, lightweight material. Therefore, it would have

been obvious to combine Greves with Kuhnsman et al. to obtain the invention as specified in claims 19 and 37.

Double Patenting

29. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

30. Claim 32 is objected to under 37 CFR 1.75 as being a substantial duplicate of claim 14. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel I. Becker whose telephone number is 571-272-8206. The examiner can normally be reached on 8a-5p M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teri Luu can be reached on 571-272-7045. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DIB

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